



Commonwealth
of Massachusetts

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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

January 28, 1999
AO-99-01

Leonard Ciuffredo
Business Representative
International Brotherhood of Electrical Workers, Local No. 96
Union Place – 51 Union Street
Worcester, MA 01608

Re: Establishment of political action committee

Dear Mr. Ciuffredo:

This letter is in response to your December 21, 1998 request for an advisory opinion. You have stated that Local 96 is in the process of establishing a PAC in Massachusetts and would like clarification regarding the distribution of members' contributions.

Members would sign a voluntary authorization card directing \$0.01 (one cent) per hour¹ worked to the new state PAC and \$0.02 (two cents) per hour worked to the federal, Washington-based PAC. All contributions would initially be deposited into a new bank account. Two-thirds of the total would be distributed to the federal PAC once per year. The remaining one-third of the funds would be transferred to the state PAC.

Question: You have asked if the process would be consistent with the campaign finance law.

Answer: Yes, assuming the Local and the state PAC comply with the requirements specified below.

Discussion

The office has stated that a Massachusetts PAC and a federal PAC related to the same association may jointly solicit contributions from members of the association. See AO-95-27 (a copy is enclosed). As discussed in more detail in that opinion, however, such joint fundraising activities must be "bona fide" and consistent with the provisions of the campaign finance law.

¹ At one cent per hour and assuming a 40 hour workweek, the total contribution per member to the Massachusetts PAC would be \$20.80. Section 9 of chapter 55 prohibits contributions except by check in annual amounts greater than \$50. If the hourly contribution were increased above one cent, compliance with section 9 could become an issue.

To comply with the campaign finance law, the Local must identify, to all potential contributors, the entities the Local is soliciting for. In addition, members must have the option to contribute: as noted in AO-98-03 (a copy is enclosed), "an affirmative action must be taken to make a contribution; it may not be made by default." If a member does not want to contribute to the two PACs in the ratio of 2:1, that member's contributions must be forwarded directly to the intended recipients, i.e., they may not first be deposited in a transmittal account and then apportioned according to a 2:1 ratio between the committees.

Members' contributions (the three cents per hour described in your question) must initially be deposited into a separate transmittal account and then allocated between the federal and state PACs. After allocation, i.e., determination of the amount received by each PAC, the funds allocated for the state PAC must be kept separate and distinct from funds received for the federal PAC. Therefore, they must be transferred to the state PAC's account. **Distribution from the transmittal account to the state PAC account must occur promptly, i.e., within thirty days.**

The Local must maintain all records required by section 2 of chapter 55, identifying those contributions received on behalf of the state PAC. In addition, the Local must provide a detailed account of contributors to the state PAC's treasurer within three days of receipt.

The value of the administrative support given to the state PAC by the Local would be considered an in-kind contribution to the state PAC unless the state PAC reimburses the Local for such support. The state PAC must disclose the value of such services not reimbursed as an in-kind contribution in the same proportion that total contributions received are designated for the state PAC. See M-97-04. Therefore, if the value of all administrative services is \$1,500 and the state PAC receives 1/3 of the contributions received, the state PAC would report an in-kind contribution from the Local in the amount of \$500, less any reimbursement paid by the state PAC to the Local.²

In reporting contributions to the state PAC, contributions are considered to be "received" by the committee when the funds are "delivered to, taken possession of or acquired by the . . . committee, e.g., the committee's treasurer or other authorized agent of the committee. The contribution should be reported in the reporting period that it is received." See M-98-06 (emphasis added). The Local, in soliciting the contributions, would be acting as an agent of the PAC. **Therefore, the contributions must be reported during the reporting period in which the funds are received in the transmittal account.** In addition, please note that the amount reported as contributions is the state PAC's share of gross proceeds (as described in your question, this amount would be one cent per hour) -- not proceeds net of bank and other fees. See AO-89-14.

In addition to the enclosed advisory opinions, I have enclosed OCPF's *Campaign Finance Guide for Political Action Committees and People's Committees* and other materials relating to the steps which must be taken to register a PAC and file campaign finance reports.

² If in a calendar year the Local makes political expenditures, including in-kind contributions to the state PAC, of either \$15,000 or 10 percent of its gross revenues for the previous calendar year (whichever is less), it would become subject to the contribution limitations and certain reporting requirements that apply to political action committees. See IB-88-01.

This advisory opinion is issued solely within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter. Because the proposed fundraising effort involves fundraising for a federal PAC, you may wish to contact the Federal Elections Commission for additional guidance, e.g., on whether distribution to the federal PAC may take place once per year.

This office appreciates your interest in the campaign finance law. Please contact us if, after reviewing the enclosed materials, you have further questions.

Sincerely,

A handwritten signature in black ink, reading "Michael J. Sullivan", followed by a horizontal line.

Michael J. Sullivan
Director

Enclosures
(PAC kit, AO-95-27, AO-98-03)